



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

✓ O

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/842,745	04/16/97	LUDWIG	L VCR0103PUS

COOLEY GODWARD LLP  
ATTN: PATENT GROUP  
FIVE PALO ALTO SQUARE  
3000 EL CAMINO REAL  
PALO ALTO CA 94306-2155

LM01/0406

EXAMINER

ENG, G

ART UNIT	PAPER NUMBER
2743	7

DATE MAILED: 04/06/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/842,745</b>	Applicant(s) <b>Ludwig</b>
	Examiner <b>George Eng</b>	Group Art Unit <b>2743</b>

Responsive to communication(s) filed on Apr 16, 1997

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-42 and 45-50 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-42 and 45-50 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 2 and 6

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2743

## **DETAILED ACTION**

### ***Double Patenting***

1. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and (c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-42 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-39 of U.S. Patent No. 5,751,338. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the

Art Unit: 2743

claimed features of the present Application Serial No. 09/08/842,745 are transparently found in U.S. Patent No. 5,751,338 with obvious wording variation.

*Specification*

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

*Claim Rejections - 35 U.S.C. § 112*

4. Claims 45-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 45 and 50, the term "capable" is vague and indefinite because it is unclear whether the claimed system or method is capable or not. Every limitation must be positively identified.

Claims 46-49 are also rejected because of depending on claim 45 containing the same deficiency.

Furthermore, it is unclear whether the term "the switching subsystems" in claim 45 lines 12-13 is referring to "a common switch subsystem" or other switching subsystems.

Art Unit: 2743

***Claim Rejections - 35 U.S.C. § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 45-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Ludwig et al. (US PAT. 5,617,539 hereinafter Ludwig).

Regarding claim 45, Ludwig discloses a system for providing audio and video telecommunication services among a plurality of premises as shown in figure 3, the system comprising a common switching subsystem 30 configured to manage audio and video connection among a plurality of communication paths and a plurality of physical links (figure 1 and col. 6 lines 1-53).

Regarding claim 46, Ludwig discloses the system comprising at least one shared resource accessible to each of the plurality of premises (col. 8 lines 28-30).

Regarding claim 47, Ludwig discloses the shared resource is selected from the group consisting of public phone lines, access equipment, codec, multimedia database, conference bridge, and access multiplexer (figures 3-4 and col. 7 line 24 through col. 11 line 61).

Art Unit: 2743

Regarding claim 48, Ludwig teaches the system comprising a twisted pair of transceiver for transceiving audio and video signals (figure 19).

Regarding claim 49, Ludwig discloses a digital switch complex operative coupled to the public digital telephone network to tranceive audio and video signals and a switch complex operatively associated with the digital switch complex and the twisted pair transceiver for transceiving signals (figure 3 and col. 8 lines 15-25).

Regarding claim 50, the limitations of the claim are rejected as the same reasons set forth in claim 45.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Watanabe (US PAT. 5,257,306) discloses a video teleconferencing system including a plurality of terminals, a common server and a plurality of communication paths dedicated to one of the plurality and the common server (figure 1 and abstract). Flohr (US PAT. 5,534,914) discloses a video conferencing network for digital computer workstations that operate on a local area network to exchange data (abstract and figures 8-11).

8. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Art Unit: 2743

**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

**Or:**

(703) 305-9508 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Eng whose telephone number is (703) 308-9555. The examiner can normally be reached on Tuesday to Friday from 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (703) 305-4708.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

GEORGE ENG

March 26, 1999



PAUL LOOMIS  
PRIMARY EXAMINER